



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0446; FRL-9398-02-R4]

Air Plan Approval; KY; Jefferson County Emissions Statements Requirements for the 2015 8-Hour Ozone Standard Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing approval of a State Implementation Plan (SIP) revision to the Jefferson County portion of the Kentucky SIP submitted by the Commonwealth of Kentucky through the Kentucky Division for Air Quality (KDAQ) to EPA on August 12, 2020. The SIP revision was submitted by KDAQ on behalf of the Louisville Metro Air Pollution Control District (LMAPCD) to address the emissions statement requirements for the 2015 8-hour ozone national ambient air quality standards (NAAQS) for the Jefferson County portion of the Louisville, Kentucky 2015 8-hour ozone nonattainment area (hereinafter referred to as “Jefferson County”). Jefferson County is part of the Kentucky portion of the Louisville, Kentucky-Indiana 2015 8-hour ozone nonattainment area (hereinafter referred to as “the Louisville, KY Area”) which is comprised of Bullitt, Jefferson, and Oldham Counties in Kentucky. EPA will consider the emissions statement requirements for the Bullitt and Oldham portions of the Louisville, KY Area in a separate action. This action is being taken pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective [Insert 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2020-0446. All documents in the docket are listed on the www.regulations.gov

web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that, if possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9088. Ms. Bell can also be reached via electronic mail at bell.tiereny@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 1, 2015, EPA strengthened the 8-hour ozone NAAQS, lowering the level of the NAAQS from 0.075 parts per million (ppm) to 0.070ppm. *See* 80 FR 65292 (October 26, 2015).¹ On April 30, 2018 (effective August 3, 2018), EPA designated a 5-county area in the Louisville metropolitan area, including Jefferson County, as a marginal ozone nonattainment

¹ The 2015 Ozone NAAQS was promulgated on October 1, 2015, published on October 26, 2015, and effective December 28, 2015.

area for the 2015 8-hour ozone NAAQS using 2014–2016 ambient air quality data.² *See* 83 FR 25776 (June 4, 2018).

Based on the nonattainment designation, Kentucky was required to develop a SIP revision satisfying, among other things, CAA section 182(a)(3)(B). On August 12, 2020,³ the Commonwealth of Kentucky, through KDAQ on behalf of the LMAPCD submitted a SIP revision addressing the emissions statement requirements related to the 2015 8-hour ozone NAAQS for Jefferson County.

EPA is approving the SIP revision as meeting the emissions statement requirement of section 182(a)(3)(B) of the CAA, and meeting EPA’s SIP Requirements Rule.⁴ More information on EPA’s analysis of LMAPCD’s August 12, 2020, SIP revision, and how this addresses the above-mentioned requirements, is provided in EPA’s notice of proposed rulemaking (NPRM) published on January 13, 2022. *See* 87 FR 2101. EPA received no public comments on the January 13, 2022, NPRM.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of LMAPCD Regulation 1.06, *Stationary Source Self-Monitoring, Emissions Inventory Development, and Reporting*, Version 10, with the exception of Section 5 and references to Section 5, effective on May 20, 2020. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by EPA for

² The Louisville, KY-IN nonattainment area for the 2015 8-hour ozone standard consists of the following counties: Bullitt County, Jefferson County and Oldham County in Kentucky and Clark County and Floyd County in Indiana.

³ LMAPCD’s transmittal letter for the August 12, 2020, SIP revision was dated August 11, 2020, and submitted to EPA on August 12, 2020.

⁴ On December 6, 2018, EPA finalized a rule titled “Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements” (SIP Requirements Rule) that establishes the requirements that state, tribal, and local air quality management agencies must meet as they develop implementation plans for areas where air quality exceeds the 2015 8-hour ozone NAAQS. *See* 83 FR 62998.

inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.⁵

III. Final Action

EPA is approving the changes described in the NPRM, *see* 87 FR 2101 (January 13, 2022), which Kentucky submitted in its August 12, 2020, SIP revision to address the emissions statements requirements for the 2015 8-hour Ozone NAAQS for the Jefferson County Area. EPA has determined that the Jefferson County Area emissions statements requirements SIP meets the requirements for the 2015 ozone NAAQS for the Jefferson County Area.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

⁵ *See* 62 FR 27968 (May 22, 1997).

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to

publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days from date of publication of this document in the FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 28, 2022.

Daniel Blackman,
Regional Administrator,
Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart (S) - Kentucky

2. In §52.920, in paragraph (c), amend table 2 by revising the entry for Regulation “1.06” to read as follows:

§52.920 Identification of plan.

* * * * *

(c) * * *

Table 2 – EPA-Approved Jefferson County Regulations for Kentucky

Reg	Title/subject	EPA approval date	Federal Register notice	District effective date	Explanation
**	*	*	*	*	*
1.06	Stationary Source Self-Monitoring, Emissions Inventory Development, and Reporting	[Insert date of publication in FEDERAL REGISTER]	[Insert citation of publication]	5/20/2020	Except for Section 5 and any references to Section 5 in this regulation
**	*	*	*	*	*

* * * * *

[FR Doc. 2022-04831 Filed: 3/8/2022 8:45 am; Publication Date: 3/9/2022]